

**Comments of the California Wind Energy Association and CalRENEW-1 LLC
On FERC Order 764 Market Changes;
CAISO November 14, 2013 Draft Tariff Language**

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Introduction and Summary

The California Wind Energy Association (“CalWEA”) and CalRENEW-1 LLC (“CalRENEW”) respectfully submit the following comments on the California Independent System Operator Corporation’s (“CAISO”) November 14, 2013, draft tariff language regarding issues affecting intermittent resources arising under the proposed FERC Order 764 market changes. CalWEA and CalRENEW appreciate the changes made by CAISO staff from the last draft of the tariff language, particularly with respect to the affidavit process and Inter-SC Trades. With these changes, assuming that the current draft language remains substantially unchanged in these respects, we request only a few additional refinements to the proposed tariff language to make sure that the market works for all intermittent resources.

In particular, as discussed in more detail below, CalWEA and CalRENEW propose the following modifications to the draft tariff language:

1. Intermittent resources should not be prevented from implementing reasonable risk-mitigation strategies in connection with scheduling in CAISO’s markets.
2. The tariff should indicate that the duration of the protective measures will be evaluated in the Spring of 2015 and may be extended, as required by the CAISO Governing Board.
3. The tariff should state clearly that certified Participating Intermittent Resources (“PIRs”) will not lose their status as PIRs, and will be scheduling their generation as PIRs, if they are certified by CAISO to use their own forecasts and use such forecasts in their scheduling.
4. The tariff should include two simple clarifications.

Discussion

1. Intermittent resources should not be prevented from implementing reasonable risk-mitigation strategies in connection with scheduling in CAISO's markets.

Section 4.8.2.1.1 allows an Eligible Intermittent Resource ("EIR") to submit generation forecasts to CAISO based upon the resource's own forecast, as opposed to the forecast developed by CAISO's forecasting contractor, after the resource completes a CAISO certification process. It goes on to provide that this permission may be revoked if CAISO determines that the forecast is either (i) "materially less accurate than the forecast provided by the CAISO on a regular basis" or (ii) "if CAISO has a reasonable basis to believe that the resource is engaged in strategic forecasting for purposes other than accuracy." If a resource is decertified, it must employ the forecasts developed by CAISO's forecasting contractor.

CalWEA and CalRENEW agree that forecasts submitted to CAISO by EIRs should be as accurate as possible and that, if an EIR's forecast is routinely less accurate than CAISO's or if the resource is engaging in improper forecasting, CAISO should revoke the EIR's ability to use its own forecast. Although it is not entirely clear from the draft tariff language, however, CalWEA and CalRENEW understand that CAISO expects EIRs to submit schedules in the CAISO markets in accordance with either the CAISO's forecast or the EIRs' own CAISO-certified forecast and that if an EIR's generation routinely deviates from the applicable forecast, CAISO may take remedial measures, including possibly scheduling the resource using CAISO's own forecast. CalWEA and CalRENEW understand that CAISO's concern is that EIRs not be permitted to take advantage of the modified scheduling windows allowed in the Order 764 market to arbitrage or "game" market prices in an unfair manner.

CalWEA and CalRENEW agree that EIRs should not be able to engage in unfair gaming or arbitrage using the new scheduling opportunities. However, EIRs should not be prevented from scheduling in such a way so as to mitigate their exposure to deviation charges, so long as they do so in a reasonable manner, one that neither unduly benefits the EIR nor harms any other market participants. This kind of scheduling may be considered "strategic," and may not follow a practice of scheduling precisely in accordance with their forecast, but it is not improper and should not be prevented.

For example, recognizing that even the best forecast is going to be inaccurate, an EIR may desire to schedule somewhat less generation in the CAISO market than its generation forecast may predict in order to minimize the chance that the EIR will generate less than its schedule and be subject to imbalance payment obligations. So long as the EIR consistently follows such a strategy, irrespective of prevailing market prices, CAISO should not be concerned that the EIR is pursuing any gaming or unfair arbitrage strategy. No other resource would be prevented from pursuing such a "strategic" scheduling strategy and there is no valid reason to prevent EIRs from doing so as well.

CalWEA and CalRENEW acknowledge that it may not always be easy to tell a legitimate scheduling strategy from one that should be impermissible. However, this does not mean that

CAISO should simply prevent all types of strategic scheduling by EIRs, which CAISO will do if it requires all EIRs to schedule precisely in accordance with their, or CAISO's, forecasted generation. CAISO's Division of Market Monitoring ("DMM") should be empowered to determine if an EIR is engaged in strategic scheduling and, if so, whether such scheduling should be impermissible. The key, however, is to ensure that the tariff confers this discretion to the DMM and does not simply prevent all "strategic" scheduling.

Thus, to the extent that Section 4.8.2.1.1 is, in fact, designed to control EIRs' scheduling practices and not just their forecasting, the criteria under which CAISO may take remedial measures should permit legitimate scheduling strategies, such as a strategy designed to mitigate imbalance risk, so long as the employment of the strategy does not confer illegitimate benefits to the EIR or harm to other market participants. Alternatively, recognizing that all forecasts are imperfect, CAISO should clarify Section 4.8.2.1.1 to allow forecasts from EIRs that cover a reasonable range of potential generation (say 10% higher or lower than the mean) and permit EIRs to schedule within this range without fear of remedial action.

2. The tariff should indicate that the duration of the protective measures will be evaluated in the Spring of 2015 and may be extended, as required by the CAISO Governing Board.

One of CalWEA's and CalRENEW's primary concerns with CAISO's protective measures throughout this process has been the proposed three year term thereof. With this short duration, the utilities will be able to just wait out the three years and then subject the generators to the increased risks that the protective measures were designed to address. This would give the utilities undue leverage in any contract negotiations designed to revise existing contracts to address the underlying issues.

When CalWEA presented this concern to the CAISO Governing Board at its September 12, 2013, meeting, the Governing Board declined to extend the term of the protective measures at that time, but did require that the term of the protective measures be re-evaluated and potentially extended in the Spring of 2015. With an explicit re-evaluation on the calendar, if the utilities do not negotiate in good faith with affected generators, they run the risk that CAISO will extend the protective measures. This evaluation requirement and extension option was duly noted in the resolution on Motion Number 2013-09-G2. Because of its importance, the tariff language should be modified to indicate that CAISO will re-evaluate, and potentially extend, the duration of the Protective Measures in the Spring of 2015 as required by the CAISO Governing Board at its September 12, 2013 meeting.

3. The tariff should state clearly that certified Participating Intermittent Resources may choose, after notifying CAISO, to utilize their own forecasts for scheduling purposes for any period of time, and that at all times such resources are scheduling their generation as Participating Intermittent Resources.

As mentioned above, Section 4.8.2.1.1 of the draft tariff establishes that EIRs may submit schedules based upon either the forecast produced by CAISO's independent forecasting expert or the generator's own forecast. By referring to EIRs, however, the tariff language creates a potential ambiguity as to whether a generator using its own forecast remains a Participating

Intermittent Resource and is scheduling as such. Because most, if not all, existing contracts require intermittent resources to be Participating Intermittent Resources and to submit schedules as Participating Intermittent Resources, the tariff should be clarified to specify that an EIR that goes through the required certification process to become a Participating Intermittent Resource does not lose its Participating Intermittent Resource status because it uses its own CAISO-certified forecast for scheduling purposes. This is entirely consistent with how the market works today and there is no reason not to be explicit about this in the future.

Similarly, Participating Intermittent Resources that use a CAISO-certified forecast of its own should also be considered to be scheduling as a Participating Intermittent Resource. Because the PIR's forecast methodology will be certified by CAISO, and the forecast will be at least as accurate as the forecast created by CAISO's expert, such a resource should be considered to be scheduling as a Participating Intermittent Resource. Given the contractual requirements discussed above, this too should be clarified. Failure to make these clarifications could result in the preclusion of Eligible Intermittent Resources from using their own forecasts, as they could be accused of violating contract requirements to remain and schedule as Participating Intermittent Resources.

4. The proposed tariff language should be clarified in two simple, but important, respects.

The fifth sentence of proposed section 4.8.3.1.2.2, beginning with "In the event that the counterparty submits no additional affidavits within the thirty days," should be modified because the reference to "additional affidavits" does not follow from the process outlined in this section. The language should read as follows: "In the event that the counterparty submits no affidavit within the thirty days,"

Section 11.12.3.3 should be modified to make clear that Participating Intermittent Resources that would not otherwise be subject to a Participating Intermittent Resources Export Fee will not newly be subject to the export fee simply because they have elected PIRP Protective Measures. The current language of this section is not clear in this respect. The language of Section 11.12.3.3 should read as follows: "A Participating Intermittent Resources Export Fee will be levied to Participating Intermittent Resources that have elected for PIRP Protective Measures, and are not otherwise exempt, in accordance with Section 5.3 of Appendix Q and Schedule 4 of Appendix F."